

# SENATE BILL REPORT

## SHB 2722

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As Reported by Senate Committee On:  
Human Services & Corrections, February 27, 2014

**Title:** An act relating to arrest of sixteen and seventeen year olds for domestic violence assault.

**Brief Description:** Concerning the arrest of sixteen and seventeen year olds for domestic violence assault.

**Sponsors:** House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts and Kagi).

**Brief History:** Passed House: 2/11/14, 53-45.

**Committee Activity:** Human Services & Corrections: 2/27/14 [DP, w/oRec].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass.

Signed by Senators O'Ban, Chair; Darneille, Ranking Member; Hargrove and Padden.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Pearson, Vice Chair.

**Staff:** Shani Bauer (786-7468)

**Background:** A police officer must arrest and take into custody certain individuals without a warrant when the officer has probable cause to believe that the person committed specific crimes. These specific crimes include violations of a protection order, restraining order, no-contact order or foreign protection order, and persons age 16 years or older who assaulted a family or household member.

Mandatory arrest with probable cause for domestic violence assault was enacted by the Legislature in 1984 in an attempt to overcome law enforcement's traditional reluctance to arrest in cases of assaults involving domestic partners. The age of mandatory arrest was changed from age 18 to age 16 in 1995.

Assault. There are four assault categories ranging from first through fourth degree assault. First through third degree assault are felony offenses, while fourth degree assault is a gross misdemeanor. Fourth degree assault is defined as an assault not amounting to first degree,

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second degree, third degree, or Custodial Assault. Because Washington's criminal code does not define assault, the courts apply a common law definition. That common law definition includes the following:

- an attempt, with unlawful force, to inflict bodily injury upon another;
- unlawful touching with criminal intent; and
- putting another in apprehension of harm whether or not the actor intends to inflict or is capable of inflicting that harm.

A touching may be unlawful because it was not legally consented to nor otherwise privileged, and was either harmful or offensive.

Domestic Violence. Certain crimes, including assault, are designated domestic violence crimes when committed by one family or household member against another. Family or household members include spouses, former spouses, persons who have a child in common, adults related by blood or marriage, adults who are residing together or who have resided together in the past, persons 16 years of age or older who are residing together or who have resided together in the past who have or have had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

**Summary of Bill:** The age of mandatory arrest for domestic violence assault is increased from age 16 to age 18.

Police officers may arrest individuals who are age 16 or 17 and within the preceding four hours have assaulted a family or household member and the officer believes a felony assault occurred, an assault occurred resulting in bodily injury, or that any physical action which was intended to cause another person to reasonably fear imminent bodily injury or death occurred.

Specific criteria is provided that police officers must consider in determining the arrest of 16 and 17-year-olds for assault involving a family or household member.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Two thousand youth are referred for domestic violence assault each year. You may not know that the juvenile detention alternative initiative provides alternatives for 72 percent of those referred to the juvenile system and that program is looking to be expanded. There are situations where a juvenile is violent and definitely needs to be in detention, but for others detention does not help. It removes the juvenile from the juvenile's family, interrupts school or employment, and marks a kid as in trouble. This bill adds some flexibility for 16 and 17 year olds and gives police officers the ultimate discretion in determining whether to arrest. Police should have the opportunity to

use alternatives for this population in order to de-escalate the situation. This bill is also endorsed by the Washington Association of Prosecuting Attorneys and the Sentencing Guidelines Commission.

**Persons Testifying:** PRO: Representative Roberts, prime sponsor.